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C O N F I D E N T I A L SECTION 01 OF 03 DILI 000197

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SUBJECT: ELECTION AND GOVERNMENT TRANSITION UPDATE

REF: A) DILI 182 B) DILI 189

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CLASSIFIED BY: Elizabeth S. Wharton, Political/Economic Officer,  
U.S. Embassy, Dili, East Timor, Department of Defense.  
REASON: 1.4 (b), (d)

11. (SBU) Summary: With the victory of Prime Minister Jose Ramos-Horta in the presidential race now officially confirmed by the Court of Appeals, plans are in place for his inauguration on May 20. Deputy Prime Minister Estanislau da Silva will assume the Prime Ministership until June 30, while the rest of the government will remain the same. There are concerns that with a Fretilin member back in the driver's seat, the government may move to put key legislation in place during its final weeks in power before the parliamentary elections. The post-election period has been mostly peaceful, but there has been some increase in violent incidents both in the districts and in Dili compared to the remarkably quiet pre-election period. Post will continue to track this and emphasize the importance of political leadership in preventing violence. The Fretilin-dominated parliament this week pushed through a controversial amendment to the parliamentary law, which while addressing some key shortfalls, includes provisions regarded as politically motivated and possibly increasing the potential for fraud. Despite his reported unhappiness with aspects of the amendment, our sources indicate that either outgoing President Xanana or Ramos-Horta once in office will sign it. End summary.

Presidential election final; government transition moving ahead  
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12. (SBU) On May 16, the President of the Court of Appeals publicly announced that the Court had verified the results of the May 9 presidential runoff election, thus placing the final official stamp on outgoing Prime Minister Jose Ramos-Horta's landslide win against Fretilin party president, Francisco "Lu'olo" Guterres. Deputy Prime Minister Estanislau da Silva

will take over as Prime Minister on May 19, heading up the third Constitutional Government through June 30. Ramos-Horta will be inaugurated as president at 9:00am on May 20 in the National Parliament, to be immediately followed by ceremonies to mark the fifth anniversary of the Restoration of Independence. (Until late on May 18, there was confusion and ambiguity regarding transition arrangements, with some concern that constitutional requirements might be bypassed. However, an invitation issued to heads of diplomatic missions late in the day stated that Estanislau da Silva is to be inaugurated as a Prime Minister with full powers as the head of the Third Constitutional Government.)

13. (SBU) Of note in considering the implications of the interim governance arrangements are some indications that the ruling Fretilin party may move to use the period, with one of their own back in the top seat, to push through some important new legislation. It was recently brought to our attention, for example, that the Council of Ministers (cabinet) plans within the next two weeks to discuss and likely pass a set of decree laws governing the petroleum sector. Decree laws do not go through parliament and are thus subject to less public scrutiny; however, they are still subject to presidential promulgation or veto, so it is possible that Ramos-Horta will serve as a check on such moves.

Post-election violence increases, but remains localized  
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14. (C) In the days immediately following the May 9 election, there were several reports of election related violence occurring in some outlying districts. Fretilin supporters are the most frequent culprit, but Fretilin is waging a public relations campaign to claim that they are the ones under attack. To date, the incidents have been relatively few in number, and are occurring in areas known to have ongoing tensions. However, they could be indicators of a re-emergence of a cycle of political conflict and retaliation that may intensify in the run

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up to the much higher stakes parliamentary elections.  
-- In Ermera district, one person was killed and mutilated, and several homes destroyed in an incident on May 13. Several versions of this event are circulating, but a reliable source within the PNTL reported that the incident occurred when several Fretilin supporters attacked members of a group known as "5-5" because they had not received money promised in exchange for their Lu'olo votes. Minister of Justice Domingos Sarmiento has been linked as a potential player in this, with both UNPOL and the Prosecutor General reportedly investigating his role in alleged cash for vote schemes in the district (see Ref A). This version of events has been corroborated by other Embassy sources with links to Ermera.  
-- In Viqueque district, fighting in the Uatolare area over the last week reportedly resulted in a number of people fleeing to a local church for shelter. Houses belonging to Ramos-Horta supporters were reportedly targeted. This community has come under scrutiny following an attack on Ramos-Horta supporters that occurred there during the first round of the presidential campaign. The district police commander is under investigation for alleged involvement in that attack and is reported to have been in the area when these more recent flare-ups occurred.  
-- In addition, there have been several reports of threats against the Catholic Church in Baucau, apparently due to the Church's strong association with opposition forces.

15. (C) Also of potential concern is an apparent uptick of community and martial arts group clashes within Dili, possibly with a political element. The SRSG on May 16 publicly expressed concern regarding "signs of a resurgence of gang fighting and mob violence in the nation's capital". Fighting has resulted in several house burnings and some injuries. Embassy staff looking into the developments in the two neighborhoods involved found that they are dominated respectively by two competing martial arts groups. In the Hudi Laran area, community members confirmed that their village was dominated by PSHT martial arts

group members, most of whom are also supporters of the opposition Democratic Party (PD). The neighboring village in the Bairo Pite area is dominated by "7-7" group members, alleged in this community to have strong Fretilin affiliations. Each blamed the other for provoking the violence. Members of the PSHT/Hudi Laran community specifically identified a Fretilin Deputy Secretary General as being involved in the planning of attacks. Members of the 7-7/Bairo Pite community, in contrast, alleged that some members of both the national police (PNTL) and Malaysian UNPOL were involved in attacks on them.

#### Controversial amendment to parliamentary election law

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¶6. (SBU) On May 16, the Fretilin-dominated parliament passed an amendment to the parliamentary election law containing two controversial provisions, the elimination of photographs from the ballots and the shifting of all ballot counting to the district level. According to the original law, each party or coalition was to have its symbol and a photo of its top candidate on the ballot. The move to eliminate the photo is generally regarded as specifically designed to prevent popular outgoing President Xanana Gusmao, who will step into the presidency of the newly-established CNRT (National Congress for the Timorese Reconstruction) party, from appearing on the ballot. In addition, the amendment requires that all ballot counting take place at the district level, in contrast to the presidential race in which counting took place at the individual polling stations before the ballots were transferred to the district level for tabulation. Fretilin has argued that transporting the ballots to the districts before counting will reduce the potential for local violence and intimidation based on reactions to local results. However, UNMIT officials and international election organizations have expressed strong concern that this could open the process up to fraud, both by eliminating the local counting process and its associated transparency and checks, and by creating the possibility that ballot boxes will be beyond the eyes of observers and party agents during their transportation to the districts. Although the law allows for the boxes to be accompanied by observers, the limited availability of transportation may seriously constrain

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this option.

¶7. (C) In addition to the above changes, the amendment addresses several key items identified by the UN Election Certification Team (ECT) as requiring attention, such as the specification of legal penalties for some electoral offenses and the clarification of the threshold provision for parties to be represented in parliament. This has created a conundrum for President Gusmao, who must decide whether to sign the law or veto it. Gusmao's legal advisor, Carmelito Moniz, who is also a CNRT official, relayed that he is very unhappy with these two provisions. However, Moniz on May 18 told us that Gusmao is planning to sign the law nonetheless, or leave it to Ramos-Horta with the recommendation that he sign. He reportedly has noted that the counting provisions in the original law are significantly worse than the amendment (while providing for local counting, they give the polling stations only one hour to complete it, which in our observation is impossible even for the smaller stations). In addition, he has apparently decided to abandon his effort to make sure his photo is on the ballot, noting that the CNRT symbol, which bears great similarity to the former CNRT symbol that represented the independence option on the 1999 referendum ballot, will have to suffice.

¶8. (SBU) Comment: We expect the government transition to occur peacefully and relatively smoothly in the coming days. However, we will closely track and respond to any attempts by the new/interim government to make decisions of potential import. Fretilin leaders may see this as a final chance to push through specific agendas before a potential loss of power. While the incidents of post-election violence have been generally limited and localized, they point to potential risks for increased instability around the parliamentary elections. Election

observers have criticized the extent of negative rhetoric that characterized both second round campaigns as increasing the potential in this environment for violence. We will continue to emphasize to political leaders that violence is unacceptable, and that their leadership responsibilities require a responsible use of campaign rhetoric. Finally, while the amendment to the election law contains both improvements and problematic provisions, its signing will allow preparations and training to move forward and avoid a possibly futile political clash. While there are no provisions which by their promulgation will prevent a free and fair election, the district-based counting will create a significant new burden on national and international observers to ensure that no fraud occurs during the transportation from voting stations to district capitals. End comment.

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